

Thurman King v. City of Rockford, et al.

U.S.D.C. Western District of Michigan Case No. 1:21-cv-259

Honorable Jane M. Beckering

Plaintiff's Response in Opposition to Defendants' Motion for Summary Judgment

Exhibit 2

1 UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION
3 THURMAN KING,
4 Plaintiff, Case No. 1:21-cv-00259
5 vs. Hon. Paul L. Maloney
6 CITY OF ROCKFORD, Mag. Judge Sally J. Berens
7 ROCKFORD DEPARTMENT OF
8 PUBLIC SAFETY,
9 OFFICER ZACHARY ABBATE,
10 and OFFICER JASON BRADLEY,
11 Defendants.
12 /

10 ZOOM DEPOSITION OF THURMAN KING

11 Taken by the Defendants on Thursday,
12 December 30, 2021, via Zoom video teleconference
13 for all participants, commencing at 10:02 a.m.

14 APPEARANCES:

15 For the Plaintiff: MR. STEPHEN R. DREW (P24323)
16 DREW, COOPER & ANDING
17 80 Ottawa Avenue NW
18 Suite 200
Grand Rapids, Michigan 49503
616-454-8300

19 For the Defendant: MR. ROBERT A. CALLAHAN (P47600)
20 PLUNKETT COONEY
21 333 Bridge Street N.W.
Suite 530
Grand Rapids, Michigan 49504
616-752-4600

22 ALSO PRESENT:

23 Mr. Mark Ott, Claims Adjustor

24 REPORTED BY: Mr. Carl M. DePerro, CSR-4284
25 Certified Shorthand Reporter

1 against Rockford have you ever brought any charges of
2 discrimination through any agency?

3 A. No.

4 Q. Now, as a result of your arrest in this lawsuit you were
5 in jail for a period of time?

6 A. I was.

7 Q. Which jail?

8 A. Kent County.

9 Q. How long were you in that jail?

10 A. Approximately 15 hours or so. Fourteen, 15 hours I
11 believe.

12 Q. About a half a day, somewhere around there, maybe a
13 little bit more?

14 A. It was overnight.

15 Q. What time were you released from the jail, Kent County
16 Jail?

17 A. Around two or three o'clock maybe.

18 Q. In the afternoon?

19 A. Yes.

20 Q. Is that the first time you ever had been in jail?

21 A. No.

22 Q. On how many other occasions had you been in jail?

23 A. Once I believe.

24 Q. And when was that, that you can recall?

25 A. Approximately 1986 maybe.

1 work as a result of the incident?

2 A. I am not sure. I can't remember right now.

3 Q. And how long were you off work because you lost your
4 driver's license?

5 A. At least a month or so maybe. I am not sure about that
6 either, but it was a few days.

7 Q. How did you go about getting your license reinstated?

8 A. I hired an attorney, because they weren't fully
9 reinstated.

10 Q. Which attorney did you hire?

11 A. Kelly Lambert I believe is his name.

12 Q. Was this the same individual that handled your criminal
13 defense?

14 A. It was.

15 Q. Okay, very good. Do you have limits on your driver's
16 license now as a result of the March 20th, 2019
17 incident?

18 A. No.

19 Q. Did you ever ask anyone to give you a lift to go perform
20 work because you had lost your driver's license?

21 A. Yeah, Lyft.

22 Q. And did Lyft provide you a ride to go to work?

23 A. On some occasions, yes.

24 Q. To the best of your recollection, on how many occasions
25 did you have Lyft take you to work after the March 20th,

1 don't know how to --

2 Q. Okay. It was pretty immediate then, right?

3 A. Yes.

4 Q. And then when you got to the stop sign did you turn left
5 or right?

6 A. No.

7 Q. Or did you continue to go straight?

8 A. Yes.

9 Q. You continued to go straight?

10 A. Go straight, yes.

11 Q. Did you bring your car to a full stop before you
12 proceeded to go straight?

13 A. Yes, sir.

14 Q. You are sure that you did not have a rolling stop?

15 A. I am positive, because I consciously made sure. I sat
16 there for a few seconds, because he was behind me. I
17 knew he was behind me. It would have been kind of
18 foolish not to come to a complete stop.

19 Q. At some point in time did the police officer activate
20 his lights?

21 A. Yes.

22 Q. His flashers. When did he activate the flashers?

23 A. After I make my turn onto Prospect, a couple seconds
24 later I noticed his lights were on. So as I made my
25 turn onto Prospect.

1 Q. How many blocks was it from that stop sign to when you
2 turned onto Prospect?

3 A. I guess it would be one. Well, it actually goes up a
4 hill and curves. So I guess it would be one block.

5 Q. Now, you didn't bring your car to an immediate stop
6 after you were aware that the flashing lights had been
7 activated, correct?

8 A. Immediately?

9 Q. Yes, sir.

10 A. No, I wouldn't say immediately, because I was, for one
11 thing, I was in the middle of the street, and then my
12 home was right there. So I wanted to get -- no, I
13 didn't.

14 Q. How far did you continue to travel before you ultimately
15 brought the car to a stop?

16 A. Not far. Maybe a house or two. I don't know how to
17 measure that.

18 Q. So where did you bring your vehicle to a stop?

19 A. In my driveway.

20 Q. And what vehicle were you driving?

21 A. Kia Sportage.

22 Q. That's your fiance's?

23 A. Right.

24 Q. Is there a reason why you weren't driving the
25 Chrysler 300 on that day?

1 A. It could either have been because the Chrysler 300 was
2 rear wheel drive, I would drive the Kia sometime because
3 it was four-wheel drive. Or it could have been down at
4 the time. I am not exactly sure.

5 Q. Okay. You just don't know at this time, correct?

6 A. Right.

7 Q. Okay. When you brought the Kia to a stop at the
8 driveway, did you wait for Officer Abbate to approach
9 the car?

10 A. No. As I parked I turned the vehicle off and I
11 proceeded to get out the vehicle.

12 Q. Had you totally got out of the Kia before Officer Abbate
13 got to you?

14 A. Yes, I believe so.

15 Q. What was your intent in getting out of the Kia?

16 A. The reason why I got out, because I knew I had not
17 committed any infraction. So I got kind of scared, to
18 be honest. So there was no intent, I just was trying to
19 understand or wanted to understand why was he, why would
20 he turn his lights on, why would he stop me when I know
21 I hadn't done anything.

22 Q. You had been stopped by police before when you were
23 operating a vehicle, correct?

24 A. I don't believe so.

25 Q. Okay. So this is the first time that you had ever been

1 pulled over while driving a car?

2 A. I can't recall any other time. I am not sure, honestly.
3 Nothing stands out.

4 Q. Okay. So when you got out of the car what did Abbate
5 do?

6 A. He started walking towards me, and I believe he said let
7 me see your hands or -- I am sorry?

8 Q. Go ahead. I was cutting you off. I apologize.

9 A. He started walking towards me.

10 Q. Okay. And he said that he wanted to see your hands,
11 right?

12 A. Right. And he also said something about you know I know
13 you, or you know I know you, I know you, something to
14 that effect.

15 Q. How far behind the Kia did Abbate park his squad car?

16 A. I don't know. Maybe a car length maybe. I don't know.
17 Maybe the length of a car.

18 Q. Was the squad car parked directly in back of the Kia?

19 A. I believe so.

20 Q. Okay. Had Abbate gotten out of his squad car before he
21 told you he wanted to see your hands?

22 A. Yeah. He was out of the vehicle I believe.

23 Q. And had you taken any steps to get from the Kia to your
24 apartment?

25 A. No. I just started walking, took a couple steps towards

1 the back of the Kia towards him, I guess. We kind of
2 met each other behind the Kia.

3 Q. When Abbate told you that he wanted to see your hands
4 was he yelling that?

5 A. I guess, yeah, I think so.

6 Q. Was he using any curse words?

7 A. I don't recall.

8 Q. Did he have his gun in his hand at that time?

9 A. Not in his hand, but he might have had his hand on his
10 gun, but not in his hand.

11 Q. Do you know specifically whether he had his hand on his
12 gun or not?

13 A. He appeared to have his hand on his hip area.

14 Q. So if the gun would still be holstered at that time, but
15 it appeared he had his hand on it, right?

16 A. Right.

17 Q. Okay. After Abbate yelled at you that he wanted to see
18 your hands did you say anything to him?

19 A. I just put my hands up.

20 Q. And is that when Abbate said he knew you?

21 A. Somewhere, I don't know exactly when he said it in
22 there, but yeah, it was during that exchange he said it
23 sometime.

24 Q. Okay. When Abbate said that he knew you or that he
25 recognized, was it knew or recognized?

1 A. He said you know I know you, Man. I believe those were
2 the exact words.

3 Q. Was he yelling at that time?

4 A. I guess he was saying it in a normal voice.

5 Q. And then after Abbate said you know I know you, Man, did
6 you say anything?

7 A. I might have said I know you know me or something like
8 that.

9 Q. Then what happened?

10 A. Then he proceeded to tell me that I didn't stop. He
11 proceeded to talk to me and tell me that I didn't stop
12 or why didn't I stop. And I told him, I wanted to
13 explain to him I did stop, Man. I would have been a
14 fool not to stop. I knew you were behind me. You have
15 been behind me for a couple blocks.

16 Q. Now, at the time that you and Abbate were talking about
17 whether you had stopped or not, did Abbate make mention
18 that he believed that the rear license plate light was
19 out?

20 A. No.

21 Q. Did he ever comment that the rear license plate light
22 was out?

23 A. I think when we were in the car afterwards, when I was
24 in the patrol car or near the car, he might have
25 mentioned something like that.

1 Q. Did you ever look at that rear license plate light to
2 ascertain whether it was out or not?

3 A. Yeah, I did.

4 Q. When?

5 A. The next day when I got out of jail.

6 Q. Okay. And was it out?

7 A. No. The license plate was lit.

8 Q. Was it dirt-covered? Was there anything on the light
9 itself?

10 A. I don't think so. I just know the license plate was lit
11 up.

12 Q. Okay. So you and Abbate are between the squad car and
13 the back of the Kia. That would be on the passenger
14 side of the Kia?

15 A. No.

16 Q. The driver's side, I am sorry.

17 A. No. We were actually, yeah, closer to the driver's
18 side, initially.

19 Q. And that's when you and Abbate were talking about
20 whether you had stopped or not?

21 A. Right.

22 Q. So what's happened after Abbate said that you did not
23 stop and you said that you did stop?

24 A. He immediately switched the conversation to claim that
25 he smelled pot on my breath, which wasn't true.

1 Q. Had you smoked any pot that day?

2 A. That day, yeah, I had.

3 Q. When did you smoke pot that day?

4 A. Probably about six hours before the incident.

5 Q. And was that the strong-smelling pot that you would have
6 been using back the other time that Abbate said that he
7 smelled pot?

8 A. No. I didn't want to even have anything that smelled
9 that pungent.

10 Q. Did you have any pot on you?

11 A. I did. I had an unlit joint in my pocket.

12 Q. Which pocket?

13 A. I believe it was my right sweatpants pocket.

14 Q. So when Abbate told you that he smelled pot on your
15 breath what did you say?

16 A. I just said it's impossible. I haven't smoked any pot
17 since earlier in the day.

18 Q. And what did Abbate say when you said that?

19 A. I think when he said that, when I told him that, I think
20 as far as I can remember he said, I think he mentioned
21 about you are going to jail, or you are going to jail,
22 buddy, or something like that.

23 Q. When Abbate told you that you are going to jail you both
24 were standing between the Kia and the squad car,
25 correct?

1 A. Correct, yes.

2 Q. What did you do after Abbate said that you were going to
3 jail?

4 A. I believe I asked him why are you doing this to me, Man.
5 And then I proceeded to call, yell out for my fiance'.

6 Q. While you were yelling out for your fiance' were you
7 walking towards your apartment?

8 A. Yeah. I might have been trying to get closer to the
9 building itself.

10 Q. You were walking away from Abbate, correct?

11 A. No, I wasn't.

12 Q. How many times did you call out for your fiance'?

13 A. Several times. I am not sure. Maybe five, ten times.
14 I am not sure.

15 Q. And while you were yelling for your fiance' you were
16 walking towards the apartment?

17 A. Walking towards the apartment? Yelling towards the
18 apartment? I was screaming towards the apartment. I
19 wouldn't say walking towards the apartment. I wasn't
20 trying to walk. I couldn't go nowhere.

21 Q. Well, did you walk towards the apartment while you were
22 screaming for your fiance'?

23 A. I might have took a step towards the house.

24 Q. Okay. So in response to you yelling for your fiance'
25 and taking that step, what did Abbate do?

1 A. I know he started pulling me by the arm.

2 Q. Which arm?

3 A. My right arm, I believe.

4 Q. Did he say anything to you while he was pulling on your
5 right arm?

6 A. I can't recall. All I can remember what I might have
7 been saying to him. I can't recall everything he was
8 saying.

9 Q. And when Abbate started pulling on your right arm what
10 did you do?

11 A. I asked him why are you doing this to me, and I started
12 screaming more for my fiance'. That was my whole focus,
13 because I wanted her to know that I was out there.

14 Q. So he pulls you by the right arm, you start screaming
15 more. What happens then?

16 A. He grabs me by the back of my coat, he spins me around,
17 I remember spinning around, and he threw me, landing on
18 my face on the side of the patrol car. All this time he
19 still has ahold of my arm and my back of my coat.

20 Q. So he spun you around onto the hood of the patrol car?

21 A. No, in the driveway, on the side of the car.

22 Q. Okay. So he took you down onto the ground?

23 A. Yeah.

24 Q. The ground that you landed upon, was that grass, gravel?
25 What kind of composition?

1 A. Concrete.

2 Q. Do you recall anything that Abbate said to you while he
3 was taking you to the ground?

4 A. He was doing a lot of screaming. I was doing a lot of
5 hollering that I was in pain. I can't say exactly what
6 he was saying.

7 Q. And what part of your body hit the ground first?

8 A. My front area, the front chest-stomach area. Might have
9 been my knees.

10 Q. This happened pretty fast, correct?

11 A. Yes.

12 Q. So when you hit the ground what does Abbate do?

13 A. Like I say, he twisted my arm behind my back, he is on
14 my lower part of my body. It was just chaos, Man. It
15 was just a bunch of screaming. He was accusing me of
16 -- he was saying don't move. I couldn't even move. I
17 don't even know how he could even say that.

18 Q. You said he was attempting to twist your arm behind your
19 back, or he was twisting your arm behind your back. Was
20 that your right or left arm?

21 A. It was my right.

22 Q. Do you know whether he was attempting to handcuff you at
23 that time?

24 A. Yeah. I mean, he didn't have a problem handcuffing me.
25 I wasn't resisting him. I couldn't do anything.

1 Q. When you say he was on the lower part of your body, your
2 legs?

3 A. I mean, he was on the back of me, on my buttocks, my
4 legs. And very soon after I just felt this crushing
5 weight on my upper body.

6 Q. Now, at some point in time Jason -- let me back up.
7 How long were you and Abbate on the ground
8 there before Jason Bradley showed up?

9 A. Seconds, a matter of seconds.

10 Q. At any time that evening did Jason Abbate kick you?

11 A. Did he what?

12 Q. Did he kick you?

13 A. I don't recall him kicking me.

14 Q. Did he strike you with his knee?

15 A. I felt the knee on my back.

16 Q. But did he strike you with his knee? Did he kick you
17 with the knee in a forceful blow?

18 A. Oh, oh. No, not that I recall.

19 Q. Did he hit you with a fist?

20 A. No.

21 Q. Did Abbate use a baton to hit you?

22 A. No.

23 Q. Did he use pepper spray or chemical spray on you?

24 A. No. There was no reason for any of that, because I
25 wasn't resisting him or struggling with him at all.

1 Q. And Jason Bradley didn't kick or hit you or use pepper
2 spray, right?

3 A. No.

4 Q. That is correct?

5 A. Right, that's correct.

6 Q. How long did it take from the time that you were taken
7 to the ground until your hands were cuffed?

8 A. It was a matter of seconds. A minute maybe. I don't
9 know. It wasn't too long. It didn't take no time.

10 Q. What did Officer Bradley do, that you can recall?

11 A. The moment I noticed Officer Bradley was the moment I
12 felt the weight on my upper body.

13 At some point I was able to yell out that I
14 was having trouble breathing, and Officer Bradley just
15 nonchalantly told me if you can breathe you can talk.
16 That's what stands out to me.

17 I might add also, that during, before Abbate,
18 during the time the moments before he took me to the
19 ground, that he threatened to tase me.

20 Q. Okay.

21 A. And I think I asked him why would you do that.

22 Q. No taser was used on you though, correct?

23 A. No.

24 Q. That is correct?

25 A. That's correct.

1 A. No.

2 Q. Did you become aware that the test for alcohol was
3 negative?

4 A. At some point, yes.

5 Q. You knew you had not had anything to drink alcoholic
6 that evening, correct?

7 A. Right.

8 Q. You indicated that you felt that you had no odor of
9 marijuana on your breath; is that correct?

10 A. That's correct. It was impossible.

11 Q. You had not smoked anything in the car, correct?

12 A. Not at all.

13 Q. The only joint you had was in your right front pocket?

14 A. Correct.

15 Q. And that was unlit?

16 A. It was unlit.

17 Q. Do you feel that Officer Abbate was lying about smelling
18 marijuana on your breath?

19 A. I know he was.

20 Q. Why do you say that?

21 A. Because I had a couple of meals within those six hours,
22 snacks in between. There was no odor of marijuana on my
23 breath.

24 Q. Do you feel Officer Abbate was lying about you sliding
25 through the stop sign and not coming to a complete stop?

1 A. Yes, sir.

2 Q. Why do you say that?

3 A. He turned behind me as soon as we met at the
4 intersection. As soon as I passed him.

5 It would be kind of foolish for me to have a
6 police officer behind me and me not come to a complete
7 stop.

8 Q. And whether foolish or not, did you stop at the stop
9 sign?

10 A. I came to a complete stop.

11 Q. Did you feel that Officer Abbate was lying as far as the
12 reason for the traffic stop in saying that you did not
13 come to a complete stop at the stop sign?

14 A. Yes.

15 Q. Did you feel that Officer Abbate was lying when he said
16 that the reason for the traffic stop was that you had a
17 license plate light out?

18 A. Yes.

19 Q. Why do you feel that he was lying about that?

20 A. Because when I got out the next morning, the next day, I
21 looked and it was not. The license plate was lit.

22 Q. And you also got the repair records for the Kia when you
23 had oil changes and that type of thing. Was there any
24 record after March 20th, 2019 of having to get the
25 license plate light fixed?

1 A. No, sir.

2 Q. Do you feel that by stopping you and falsely saying that
3 you did not stop at the stop sign, or rolled through the
4 stop sign when you didn't, and that you had a license
5 plate light out when you didn't, do you feel that it had
6 anything to do with your race? In other words, that
7 your race may have played a role in his deciding to lie
8 about why he stopped you?

9 MR. CALLAHAN: Objection on the basis of
10 foundation, but go ahead and answer.

11 MR. DREW: Go ahead.

12 THE WITNESS: I do. I don't feel that what
13 happened to me that night would have happened to a white
14 resident of Rockford.

15 BY MR. DREW:

16 Q. You are not aware, obviously, of any white residents
17 that that has happened to that way, correct?

18 A. Correct.

19 Q. You don't work for the Rockford Police Department,
20 correct?

21 A. No.

22 Q. You are not aware of what record they may have of stops
23 or arrests or things of that nature, black or white I
24 take it, because you don't work there, correct?

25 A. Correct.

1 Q. Right. It did happen later, right?

2 A. Right.

3 Q. You were not arraigned or charged with resisting or
4 obstructing or assaulting an officer when you got out of
5 jail on March 20th or March 21st, 2019, correct?

6 A. Correct.

7 Q. At any time did you assault Officer Abbate?

8 A. No.

9 Q. At anytime did you assault Officer Bradley?

10 A. No.

11 Q. You know what an assault is or an alleged assault,
12 correct?

13 A. Pretty much, yeah.

14 Q. At anytime did you resist Officer Abbate?

15 A. No.

16 Q. At any time did you obstruct Officer Abbate?

17 A. No, I did not.

18 Q. I think the records show that you were not charged or
19 you were not arrested. Well, strike that.

20 I think the records show that you were charged
21 with a felony of Assaulting, Resisting and Obstructing
22 an Officer sometime in May of 2019, months after this.
23 Is that your recollection?

24 A. Yes.

25 Q. You were also charged with Driving Under the Influence

1 of Drugs sometime in May of 2019, a month, almost two
2 months after the incident. Is that your recollection?

3 A. Yeah, I believe so.

4 Q. And that was after you got the call from who you feel
5 was Officer Abbate about you are going to be charged
6 with three charges; is that right?

7 A. Right.

8 Q. So you went down and you ended up getting charged and
9 then had to go before a judge, right?

10 A. Yes.

11 Q. You had to hire an attorney?

12 A. Yes.

13 Q. Do you remember how much you paid an attorney?

14 A. Eight or 9,000, something like that, maybe ten.

15 Q. The charges of the felony, let me ask you this: The
16 judge read to you that you were being charged with a
17 felony of Assaulting, Resisting and Obstructing a Police
18 Officer. Do you recall that?

19 A. I think so.

20 Q. Do you recall the judge saying that it's punishable by
21 more than a year in prison or jail or prison because
22 it's a felony?

23 A. Right.

24 MR. CALLAHAN: Foundation, but go ahead.

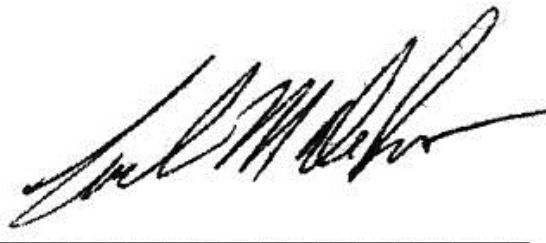
25 BY MR. DREW:

1 STATE OF MICHIGAN)
2) SS
3 COUNTY OF KALAMAZOO)
4
5

6 I, certify that this transcript, consisting of
7 105 pages, is a complete, true, and correct record of
8 the testimony of THURMAN KING, held in the case on
9 December 30, 2021.
10

11 I also certify that prior to taking this
12 deposition, THURMAN KING, was duly sworn to tell the
13 truth.
14

15 Dated: 1-4-2022
16



17
18 Carl M. DePerro, CSR-4284

19 O'Brien & Bails

20 141 East Michigan, Suite 206

21 Kalamazoo, Michigan 49007

22 1-800-878-8750

23 My commission expires: 10-16-25
24
25